

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

AUG 28 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte FANG MA, KAY NG NAN LU and BIN LI

Application 10/047,134

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 15, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed May 15, 2006 does list the prior art of record being relied upon in the rejections. Page 2 of the examiner's answer contains a section heading titled "**(8) Evidence Relied Upon**" that states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal". The Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) defines the above heading as follows:

*(8) Evidence Relied Upon.* A listing of the evidence relied on (e. g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

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The examiners bases the §103(a) rejections of the appealed claims on at least, U.S. patents to Klien, O'Shaughnessy and appellants' admitted prior art. These references and any other evidence relied upon should be listed under the "**(8) Evidence Relied Upon**" heading in the examiner's answer. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner

- a) to issue a revised Examiner's Answer listing the prior art of record and any other evidence being relied upon in the rejection(s) of the appealed claims beneath the Evidence Relied Upon heading, and
- b) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW  
Chief Deputy Appeals Administrator  
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DMS/vsh

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